

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

ANGELA MOORE,

Plaintiff,

v.

No. CIV 01-1079 WJ/JHG

THE CONNECTION,

Defendants.

MEMORANDUM OPINION AND ORDER
GRANTING DEFENDANT'S MOTION TO DISMISS COUNT II


THIS MATTER comes before the Court pursuant to Defendant's Motion to Dismiss Count II of Plaintiff's Complaint [Docket No. 8]. Having reviewed the submissions of the parties, the Court finds the motion is well taken and shall be granted.

On March 23, 2001, Plaintiff filed a charge of discrimination against Defendant with both the EEOC and the New Mexico Human Rights Division (NMHRD). The NMHRD sent Plaintiff an Order of Nondetermination on June 22, 2001. On this same date, the EEOC sent Plaintiff a Notice of Right to Sue. The NMHRD Order of Nondetermination made clear that Plaintiff had only 30 days in which to appeal that order in court. The EEOC Notice made clear that Plaintiff had 90 days in which to sue under Title VII, but that the time limit for filing suit based on a state claim might be different. Plaintiff filed her Complaint in this case on September 18, 2001 alleging both a Title VII claim under federal law and a claim under the New Mexico Human Rights Act.

Plaintiff timely filed her federal claim. Her state claim, however, was not timely filed. Thus, the state claim is barred by the state law statute of limitations whether filed in state or

federal court and regardless of the fact it is joined with a federal claim. See Mitchell-Carr v. McLendon, 980 P.2d 65 (N.M. 1999). Defendant is therefore entitled to have the claim in Count II alleging a violation of the New Mexico Human Rights Act dismissed with prejudice.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss Count II of Plaintiff's Complaint [Docket No. 8] is hereby GRANTED and Count II of Plaintiff's Complaint is hereby DISMISSED WITH PREJUDICE.


UNITED STATES DISTRICT JUDGE